



DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY OF THE ARMY
INSTALLATIONS AND ENVIRONMENT
110 ARMY PENTAGON
OFFICE OF THE GENERAL COUNSEL
CIVIL WORKS AND ENVIRONMENT
104 ARMY PENTAGON
WASHINGTON DC 20310-0110

January 10, 2005

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Transmittal of Model Language for Findings of Suitability to Transfer (FOST) and Deeds Pertaining to Army Real Estate

Over the past several years, the Army has transferred numerous parcels of real property to other federal, state, and private entities. The many property transfers under the several Base Realignment and Closure rounds have also contributed to our experience. These experiences have revealed numerous commonalities that lend themselves to standardization and adoption of model language for future real estate transactions. We believe model FOST and deed language will facilitate drafting and review as these documents are forwarded up the chain of command for execution.

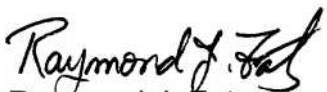
By standardizing the FOST and deed language, we will facilitate the preparation of these documents by removing uncertainty as to what will be viewed as acceptable by higher headquarters. At the same time, it will greatly speed the review of these documents by the various agencies and entities charged with such responsibility by statute, regulation, or policy. The model language has been reviewed and approved for use by our offices, in close coordination with U.S. Army Corps of Engineers and the Army Environmental Law Division.

We recognize that some sites have previously developed FOST and deed language that does not conform to the model language. For example, some FOST or deed provisions were agreed to through prior transfer memoranda of agreement or deed negotiations. We do not intend to derail or slow these property transfers. At these sites, the Army should work with the transferee to incorporate the model language to maximum extent practicable. If the model language is not incorporated, the forwarding memoranda should explain how the FOST or deed deviates from the model language and the basis for the deviation.

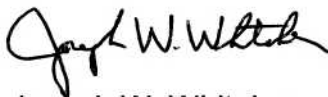
For property transfers at sites that have not previously developed FOSTs or deed language, FOSTs and deeds will conform to the model language. In the exceptional circumstance that state law, negotiations with transferees, or other site specific considerations necessitate a deviation from the model language, the responsible agency will prepare and forward with the FOST and deed a

"deviation report" setting forth the differences from the model language and the reasons therefore.

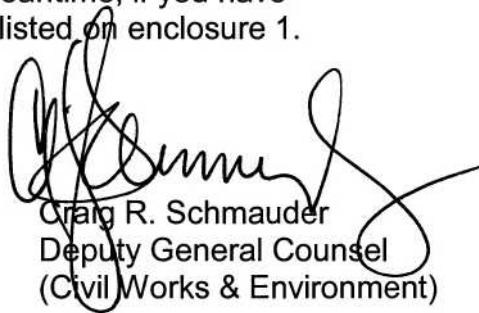
While we have every confidence that you will find the attached model language helpful, we invite your comments and suggestions for improvement. We intend to review the progress of this initiative in six months and will make appropriate changes based on your suggestions. In the meantime, if you have any questions, please contact one of the points of contact listed on enclosure 1.



Raymond J. Fatz
Deputy Assistant Secretary
of the Army
(Environment, Safety &
Occupational Health)



Joseph W. Whitaker
Deputy Assistant Secretary
of the Army
(Installations & Housing)



Craig R. Schmauder
Deputy General Counsel
(Civil Works & Environment)

5 Enclosures:

1. [Points of Contact](#)
2. [FOST Checklist](#)
3. [FOST Model Language](#)
4. [Deed Checklist](#)
5. [Deed Model Language](#)

Distribution:

The Judge Advocate General, Environmental Law Division
Assistant Chief of Staff for Installation Management
Chief Counsel, U.S. Army Corps of Engineers
Director, Army Installation Management Agency
Chief, Army Reserve
Director, Army National Guard
Commander, U.S. Army Environmental Center
Director, Real Estate, U.S. Army Corps of Engineers